

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WENDELL PHILLIPS,

Plaintiff,

Case No. 07-CV-14662

vs.

HON. GEORGE CARAM STEEH

DAKTRONICS, INC.,

Defendant.

_____/

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION [DOC. # 20]

On February 5, 2008, this Court entered an opinion and order granting defendant's motion to dismiss. The Court concluded that because the conduct at issue occurred in 1997, and that plaintiff knew or should have known of his potential claims based on such conduct at that time, plaintiff's claims were barred by the applicable Michigan statutes of limitations. Plaintiff filed a motion for reconsideration, which the Court denied because plaintiff's motion reiterated earlier arguments which had been considered and addressed. On February 5, 2009, plaintiff filed a motion to reopen case, pursuant to Fed. R. Civ. P. 60(a) and (b)(5) and (6). Plaintiff argued he was the victim of fraud and is entitled to two extra years to discover and bring his lawsuit. The Court denied the motion to reopen. Now plaintiff has filed a motion for reconsideration.

Plaintiff's newest motion is based on the argument that when the NBA began using the lighted backboard and 24 second shot clock, they shielded defendant as the source of the devices. Plaintiff alleges that the activities of defendant and the NBA amount to predicate acts for purposes of RICO, citing to § 2320 (relating to trafficking in goods and

services bearing counterfeit marks), § 1028 (relating to fraud and related activity in connection with identification documents), and § 1343 (related to wire fraud). Plaintiff seeks leave to amend his complaint, presumably to add the NBA as a party and to allege violations of the RICO statute.

The arguments and requests made by plaintiff in his most recent motion go well beyond the scope of the motion to reopen case, which was premised on the applicability of a discovery rule. Now, therefore,

IT IS HEREBY ORDERED that plaintiff's motion for reconsideration is DENIED.
So ordered.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: May 11, 2009

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on May 11, 2009, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk